



BOARD OF PUBLIC WORKS & SAFETY JULY 8, 2004 MINUTES

Mayor Charles Henderson called the meeting to order at 8:35 a.m.

PRESENT:	Board members Warren Beville, Mayor Henderson, Kevin Hoover, Clerk-Treasurer Jeannine Myers; City Attorney Shawna Koons-Davis; Director of Operations Norm Gabehart and Technician 2 Kevin Riddle for the Engineering Department.
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Mr. Beville moved to accept the minutes of June 24th as presented. Second by Mr. Hoover. Vote: Ayes.

Regarding the request to plant trees on the east side of Madison on Broadway Street, Mayor Henderson reminded the Board that when the request was made at the last meeting, they did not know what trees were acceptable. The City Attorney indicated that staff has not found the list. Planning Director Ed Ferguson stated there is a partial list of trees in the landscape ordinance. Mr. Hoover moved to grant the request for the placement of the trees, subject to approval of those trees being approved, through working with Planning Director Ed Ferguson. Second by Mr. Beville. Vote: Ayes.

Don Miller of Sign by Design came forward with a request to encroach a drainage and utility easement at 2011 Southtech to place a sign. Mr. Riddle told the Board that he had a letter from SBC objecting to a sign within the easement because of concerns about their existing facilities. Staff had not seen drawings or descriptions of the sign. Mayor Henderson suggested that they talk with the Planning Department. Counsel explained that when a petitioner needs to go before the Board of Public Works and Safety, he submits documentation to the Engineering Department, who distributes this to the Board and sets the date to appear on the agenda. Documentation should have been filed with the request to be on the agenda, she added. Shawn McKinnis of Republic asserted that he gave a 20-foot non-exclusive easement to Ameritech, which allows Republic to put facilities within the easement. He did not believe that SBC had the right to object. Ms. Koons-Davis replied that staff would have to see the easement to study it. Mayor Henderson moved to continue the matter to allow the petitioner to get documentation to staff for review and that it be put on the agenda for the next meeting. Second by Mr. Beville. Vote: Ayes.

Steve Williams of Franklin Engineering represented Capital Realty to request a waiver of stormwater detention requirements. They are replacing water lines in the south section of Southwood. As they are not redeveloping the site, the City Attorney told the Board she did not think they would be required to do any type of stormwater detention. Mr. Ferguson told the Board that the Tech Committee had no comments or recommendations and the Plan Commission has approved it. Mr. Beville moved to grant the waiver of stormwater detention requirements for Southwood South Section. Second by Mr. Hoover. Vote: Ayes.

Mike Shotts of Projects Plus, for Greenwood Station, asked for permission to encroach the right-of-way to plant one tree on the approved list per lot halfway between the back of the curb and the back of the sidewalk. Mr. Shotts had a picture that showed trees had been planted without direction or approval too close to the curb and about 20 to 30 feet apart instead of the proposed 55+ feet. Some would be moved into the second section. After discussion, Mr. Hoover moved to grant permission for encroachment of the right-of-way for the planting of trees, with the type, place and location to be approved by the Engineering Department and Planning Department (if necessary) and, failing that, the existing trees still need to be removed or relocated. Second by Mr. Beville. Mr. Ferguson stated that their only requirements when new homes are built would to put a certain number of trees and shrubs in the front yard and landscape frontage along the perimeter of the subdivision. Trees within the right-of-way, to his have always come before the Board of Works. This led to a discussion of the timeframe. Mr. Shotts estimated the trees could be moved within 30 to 45 days. Ms. Koons-Davis cited the ordinance. Mr. Hoover expressed his concern if the existing trees are not moved in a reasonable time. Mr. Hoover amended his motion to include that the existing trees be removed or relocated in compliance with the direction of the Engineering

Department no later than sixty (60) days from today's date. Second by Mr. Beville. Vote: Ayes. Vote on motion as amended: Ayes.

Max Cooper of Projects Plus, on behalf of Southern Green, Section 2, asked for acceptance of the final plat, acceptance of improvements and acceptance of the maintenance bonds. With him was David Bear of Community Development, Inc. Mr. Cooper had with him a check to go to the Engineering Department for the Inspection & Testing fees. They also requested a refund, if any exists, from the 1980 independent engineer's fees. Mr. Cooper explained that this is only an eight-lot extension to finish out sections 1 and 2. Mr. Riddle did not have anything in writing but did know that there were some field items there are not complete. He had assumed they would wait until the next meeting until those were completed. Mr. Cooper told the Board that the swale had to be regraded after the underdrain was put in and they were out today putting the erosion control back in place. He noted there is a \$61,000 performance bond in place for erosion control. Mr. Riddle has not been notified that improvements are ready to be inspected, he said, and Mr. Peoni has been out of town and unable to review the plat. Mr. Beville moved to continue the matter until the next meeting. Vote: Ayes – Beville, Henderson; Nay – Hoover. There was more discussion on holding the plat with signatures versus continuing the matter. Mr. Hoover noted that it might be able to be approved before the next meeting. Mr. Ferguson explained his procedure in examining a plat, and said he believes that there is nothing to prevent him from signing the plat before it comes before the Board. Mr. Hoover moved to accept the final plat, accept the improvements, accept the maintenance bonds for Southern Green, Section 2, to execute the plat and that the plat be held by the Engineering Department until approval of the maintenance bonds in form and amount, and Engineering Department has made final inspection of the improvements. Second by Mr. Beville. Vote: Ayes.

Donna Smithers of Maurer & Smithers representing Steve Schoolcraft for Greenwood Pointe Commercial Subdivision at the intersection of Fry Road and U.S. Highway 31, requested acceptance of a Grant of Right-of-Way, acceptance of a Temporary Grant of Right-of-Way and acceptance of a sidewalk easement. They were also asking for a waiver of storm water detention requirements and told the Board there is minimal run-off for the project. Ms. Koons-Davis confirmed that the documents for the first three requests were prepared by her office and should be in final form. Kevin Riddle commented that for the waiver request, he was not aware of Mr. Peoni's findings. Mr. Hoover moved to accept the Grant of Right-of-Way, accept the Temporary Grant of Right-of-Way and accept the sidewalk easement, all subject to final review and approval by the Engineering Department. Second by Mr. Beville. Vote: Ayes. Motion carried. Mr. Hoover then moved to continue until the next meeting the issue of the stormwater detention waiver. Second by Mr. Beville. Vote: Ayes.

For Sweetgrass, Section 3, Rob Leonard of C.P. Morgan asked for acceptance of the final plat, acceptance of improvements and acceptance of the bonds. Mr. Riddle indicated that the SAF has been paid and the improvements being asked for acceptance are complete. Mr. Hoover moved to accept the final plat, accept the improvements and accept the bonds for Sweetgrass, Section 3, that the bond be held until final approval of the improvements by the Engineering Department and final approval of the Engineering and Law Department of the amount and forms of the bonds. Second by Mr. Beville. Vote: Ayes. Motion carried.

John Myers, Code Enforcement Officer, was next to discuss nuisance complaints. He reported that the violation at 502 Butterfly Circle has been abated.

Concerning 102 S. Greenwood Street, there was a complaint of remodeling debris in the backyard that is attracting rodents. The property is owned by Anthony Crosby, who has been remodeling for the past two years. Code Enforcement has been to the house several times. He left a ten-day notice at the property. On June 1st, Mr. Crosby told Code Enforcement he would clean up the trash and debris. An inspection on 6-22 showed nothing had been done, so Mr. Crosby was sent a certified letter to appear at the Board of Works. Mr. Crosby will not accept certified letters; he has been sent these in the past. Neighbors saw Mr. Crosby loading up his belongings in a U-Haul truck. A taped copy of the certified letter was taped to the back door on 6-25 and was removed by 6-28-04. Household Finance told Mr. Myers that Mr. Crosby had restructured his loan on 6-28-04 and is up to date. Mr. Myers is not sure if anyone is living at the address. There is a concern of high grass and weeds and Mr. Myers showed pictures, even mentioning a traffic hazard. Mr. Beville moved to direct a 10-Day Notice of Abatement be sent, with City personnel to abate the nuisance if this is not done, and the City Attorney authorized to use methods she deems appropriate to charge back the cost to the property owner. Second by Mr. Hoover. After discussion, Mr. Beville amended the motion to shorten the time to 5 days. Second by Mr. Hoover. Vote: Ayes. Vote on motion as amended: Ayes.

The next violation was at 1260 Easton Pointe Drive, an abandoned house with high grass and a man-made area with standing water. The City had to mow this property last year. The owner is Melissa E. Duncan. A certified letter was forwarded to a new address of 504 Remington Point and was received. An inspection was made on 6-23-04 which confirmed the violation. Mr. Myers contacted Chris Menze with the Johnson County Health Department, who made an inspection of the pond on 6-25 but found no mosquito larvae. She will put this property on the list to check at regular intervals. Sebring Capitol Corporation is the mortgage company. They also received a certified letter. An inspection yesterday show the property is still in violation. Mr. Hoover moved to find that a nuisance exists at 1260 Easton Pointe Drive because of high weeds and vegetation and the standing water in a man-made pond, that a 7-day Notice of Abatement be issued, and failing abatement to direct the City Attorney to take all steps she deems appropriate to remedy the situation and collect the cost from the property owner. Second by Mr. Beville. Vote: Ayes.

From the audience Sanitation Superintendent Keith Meier brought a request for a single-parcel Sewer Service Agreement at 315 E. County Line Road because of septic failure. Mr. Hoover moved to direct the preparation of the single-parcel Sewer Service Agreement and to authorize the Mayor to sign. Second by Mr. Beville. Vote: Ayes.

On her Status of Tasks, Ms. Koons-Davis discussed the Sewer Service Agreement with Mark and Bonnie Stansbury (Mark IV Environmental Systems, Inc.) that was approved at the Board's August 23, 2003 meeting. The agreement is now prepared. The Mayor was never authorized to sign. Mr. Beville moved to authorize the Mayor to sign the Sewer Service Agreement with Mark and Bonnie Stansbury, as prepared by staff, to provide sewer service to 1210 N. Bluff Road, Greenwood, Indiana. Second by Mr. Hoover. Vote: Ayes.

Concerning the purchase of 30 N. Madison Avenue, at the recommendation of the City Attorney, Mr. Beville moved to direct the Clerk-Treasurer to issue a check for the purchase price of \$102,500 as soon as approval comes from the Department of Local Government Finance. Second by Mr. Hoover. Vote: Ayes.

Director of Planning, Zoning, Research and Development Ed Ferguson discussed the contract with Government E-Management Solutions (GEMS) for accounting and payroll software for the Clerk-Treasurer's office, and software for the Sanitation/Billing Office. He brought the proposed addendum from GEMS. The City Attorney, he noted, has found that the addendum is in order. Mr. Hoover then moved to authorize the Mayor to sign the contract amendment with GEMS. Second by Mr. Beville. Vote: Ayes. This will be signed by GEMS and the original will be sent back to the City.

Mr. Ferguson next discussed street lights installed in new developments, primarily, and recounted that in the past these were installed after residents had started to move into the development so that the City would not be paying bills prematurely. As residents complained when they suddenly found a streetlight installed on their property, former Mayor Surina instituted a policy where lighting was installed when the other infrastructure improvements were going in the subdivision. The fixtures and equipment have been de-regulated, noted Mr. Ferguson. He discussed the handouts from the City Attorney. Mr. Ferguson would sign off on behalf of the City to accept the monthly electrical and maintenance bills on those lights once they were installed, once he reviewed the location of those lights. There was a sample contract of the proposed Cinergy contract for the Board's review with some significant changes. Counsel had noted major changes that were of major concern to the City and discussed those. She especially noted that while the poles and lights would be the property of Cinergy, not only do they expect the City to pay for the privilege of using them, but pay if they get knocked down in a storm or in a car wreck or vandalized and to pay to replace or relocate them. Under the new policy there would be installation cost for a new streetlight. New subdivisions are at the point of wanting streetlights installed, and have been put on hold while negotiations have been going on with Cinergy. Streetlights are not mandated by our subdivision ordinance, said Mr. Ferguson. He went on to discuss Alden Place, which has custom streetlights that were not paid for upfront by the developer and the amount still owed by the homeowners' association was finally separated from the monthly electric bill. After more discussion, Mr. Hoover wondered how the City's insurance would be affected. Mayor Henderson thought this should also be brought to the attention of the Common Council, as they approve the budget and any ordinance that would put the responsibility of lighting on the homeowners. Mr. Ferguson said there was more research to do; he has asked for the current number of streetlights. He mentioned that with the emphasis on saving energy, streetlights are not as bright as they used to be. Ms. Koons-Davis told the Board that evidently Greenwood is the litmus test, for other communities have not questioned any new contract. Mr. Ferguson mentioned subdivisions

in the Carmel, Fishers, and Noblesville areas that do not have streetlights. This will be brought to the Council.

Human Resources Director Carolyn Gaier brought the issue of the renewal of airport insurance, which expires on July 14th. She just received the renewal quote, which is the same as last year - \$7,350. Even without the invoice, she asked for a fax so that she could present it to the Board today. At her request, with no change in the coverage, Mr. Beville moved to approve the request. Second by Mr. Hoover. Vote: Ayes.

Next was a request for sewer service off of Olive Branch Road, west of State Road 135 – an existing home in Olive Branch Manor. Sanitation Superintendent Meier recalled that there was an arrangement in Olive Branch Manor several years ago. At the City's request a sanitary line (8" main) was run to the south through this landowner's property. After discussion, Mr. Hoover moved to approve the single-parcel sewer service agreement and authorize the Mayor to sign on the Board's behalf. Second by Mr. Beville. Vote: Ayes.

Mr. Beville moved to approve the claims as presented through July 8, 2004. Second by Mr. Hoover. Vote: Ayes.

Mayor Henderson recalled discussion at the last meeting on the amount of 15 Year Law fees for Cobblestone. The Board had approved an amount of \$966,606.99 with the caveat of discussions between the Mayor and the City Attorney and review of the Resolution. Interest was the only issue not resolved, said the Mayor and added that Resolution No. 96-3 listed cost of construction and other items that could be included with prohibited costs including overhead to the owner or interest incurred by the owner on money borrowed to finance construction. Under cost of construction, the Mayor cited "15 Year Law Sewer Service Agreements shall not be included unless exceptional circumstances are found to exist by the Board". The Mayor asked if those exceptional circumstances include those things that are prohibited, such as the interest. The City Attorney stated that it was supposed to include those things that were foregoing or cost of construction; she gave her opinion that interest on money borrowed could not be recovered. Exceptional circumstances might be found related to costs with physical construction or payroll, she added. Mayor Henderson recalled meeting with a developer who wanted to take over the project originally and that the project ran about 18 months instead of two or three as proposed because of uncontrollable situations. Therefore he had thought that possibly some of the interest should be allowed. From the audience consultant Pat Sherman suggested there might be extraordinary circumstances because of the period of time involved. Although she did not disagree with that, counsel asserted that interest incurred by borrowing is not a construction cost that the Board can look at to get to extraordinary circumstances. There was more discussion on the ambiguity of the language. Mr. Hoover mentioned that he did not think this sort of issue was contemplated when the resolution was drafted and the Mayor reiterated that the reason it is an issue for him is that the City has experienced the same thing – with the Southeast Interceptor and on the east side. In response to Mr. Beville, the Mayor replied that circumstances actually stopped the project. At this point, Mr. Hoover thought that the Board could make an argument that the project took extra time, which is an exceptional circumstance that was not contemplated as being a "cost of construction". He would be comfortable, he said, if we could determine the percentage of interest over and above the expected project time, that the Board could find that exceptional circumstances exist and it can be passed along. There was more discussion on time frames for the original project. With the project running 18 months instead of three, Mr. Hoover noted that would be 83% interest over and above. The amount of interest was \$73,570.28 which means \$61,309 would be included. There followed discussion on the maintenance bond, where costs to take care of dewatering issues was included. The City Attorney had asked that Gene Perkins name be on the bond. Mr. Hoover moved to find, pursuant to Resolution No. 95-3, that exceptional circumstances exist for the extra costs incurred by the developer equal to 83.33% of their interest cost, which computes to \$61,309 and the amount can be included in recoverable 15 Year Law fees. Second by Mr. Beville. Vote: Ayes. With respect to the bonding amount, Mr. Hoover moved that certain items not be included in the bond amount, as highlighted in the handout, to be confirmed by the Engineering Department as being included in the original amount. Second by Mr. Beville. Vote: Ayes.

With no further business, the meeting adjourned at 10:40 a.m.